IN THE HIGH COURT OF JUDICATURE AT JABALPUR

W.P. No. 6037 /2000.

Petitioner : 1. M.P. Transport Workers' Federation (INTUC) through its Vice-President, Madan Mohan Shukla, aged about 58 years, S/o Shri B.L. Shukla, M.P. State Road Transport Corporation, Divisional office, Bilaspur.

2. Anil Kher aged 38 years, S/o Shri late S.V. Kher & Clerk & Divisional Secretary, M.P. Transport Workers' Federation (INTUC), Raigarh Division, M.P. State Road Transport Corporation, Raigarh Depo, Distt. Raigarh.

Versus

Respondents : 1. The State of Madhya Pradesh through its Secretary, (Transport), Vallabh Bhawan, Bhopal.

2. The Chief Secretary, Govt. of Madhya Pradesh, Bhopal.

3. The M.P. Road Transport Corporation throught its Managing Director, Bhopal.

4. The Divisional Manager, M.P. State Road Transport Corporation, Bilaspur.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Particulars of the petitioners:

As stated above.

Petit

Res

Amendment in OA approved by C.D. DT. 9.11.2001 Counsel for Petitioners A.S. [Anil Singh Rajput]

6. Union of India,
Through Secretary,
Ministry of Personnel,
Public Grievances and Pension,
New Delhi,

Attested
DR(J)
29/11/01

7. Secretary,
Govt. Of India,
Ministry of Surface Transport,
& Highways.
Parivahan Bhawan,
New Delhi.

HIGH COURT OF JUDICATURE CHHATTISGARH

AT BILASPUR

656

WRIT PETITION NO.6037 of 2000

M.P. Transport Workers' Federation

(INTUC) Bilaspur & Another

- Vs -

State of Madhya Pradesh & Others

Coram: Hon'ble Mr. Justice W.A. Shishak, C.J., &

Hon'ble Mr. Justice Fakhruddin, J.

******

Present:

Shri Manindra Shrivastava, with Shri Ashish Shrivastava, learned counsel for the petitioners.

Shri Vivek Tankha, learned Advocate General of Madhya Pradesh with Shri Ajay Mishra, learned Dy. Advocate General for respondents 1 & 2.

Shri A.G. Dhande, learned counsel for respondents 3 and 4.

Shri Ravindra Shrivastava, learned Advocate General of Chhattisgarh with Dr. N.K. Shukla, learned Dy. Advocate General for respondent No.5.

657

Shri Kirit N. Rawal, learned Additional Solicitor General of India with Shri A.S. Gaharwar, learned Sr. Central Government Standing Counsel for Union of India.

Heard.

The following order was passed by Hon'ble Mr. Justice Fakhruddin, J.

ORDER

(Passed on 07-12-2001)

This petition was originally filed by the petitioner No.1 Madhya Pradesh State Road Transport Corporation, Divisional Office, Bhopal and No.2 M.P.S.R.T.C. Raigarh Depot in the High Court of M.P. at Jabalpur on 17-10-2000 styling it as Public Interest Litigation for a direction to the respondents for payment of regular salary and also for the payment which was withheld by the respondents. However, after bifurcation of the State the said petition stood transferred to High Court of Chhattisgarh at Bilaspur. Following reliefs have been prayed for by the petitioners.

1. Summon the entire relevant

658

record from the respondents for its kind perusal;

2. *command the respondents to pay the salary and other benefits to the employees of the M.P.S.R.T.C. which is withheld by them as per Chart P/2 forthwith;*

3. *any other relief which this Hon'ble Court deems fit may also be granted;*

4. *cost of the petition may kindly be awarded.*

2. Learned counsel for the petitioners submitted that the principal employer of the employees working is the Madhya Pradesh State Road Transport Corporation. Counsel for the petitioners further submitted that the salary has not been paid to the employees working in the Bilaspur Division, Raigarh Depot and Ambikapur depot and Korba depot. It is also the submission of the learned counsel for the petitioner that the petitioners

659

have always been treated discriminately with respect to payment of salary because the employees working under the Bhopal division of M.P.S.R.T.C. were getting full salary during the period when the employees working in Bilaspur, Raigarh and Korba depots were deprived of the same.

3. So far as High Court of Chhattisgarh is concerned the matter came up for hearing on 10.11.2000. Notices were directed to be issued to show cause why the petition be not allowed with a direction in favour of the petitioners and against respondents No.3 and 4 that why the salary be not paid to the employees. It came up for further hearing on 12.01.2001 before Division Bench. On 12.01.2001 the Court noted that in spite of service none was present on behalf of MPSRTC and directions were issued. The matter was again listed on 27.02.2001, 05.03.2001, 15.03.2001, 18.04.2001 and 23.04.2001. On 23.04.2001, the Managing Director was present in person and the order was passed which is reproduced herein below:-

660

"The respondents No.3 and 4 have submitted a scheme to the Court suggesting that a sum of Rs.30 lacs would be collected by the M.P.S.R.T.C. from different divisions on or before 5th May, 2001 so that one month's salary can be paid to the employees. They have also assured that a sum of Rs.10 lacs will be arranged by Divisional Manager Bilaspur and sum of Rs.20 lacs will be arranged by Head Office on or before 10th May, 2001. According to them, out of the total amount of Rs.60 lacs to be collected, one month's salary would be paid to the employees of Bilaspur Division including Raigarh depot and rest of the amount would be used for mobilising the buses which have been put off the road. The petitioners

661

counsel Shri Shrivastava submits that because of the bad condition, the buses in this Division are not earning any revenue and the respondent Corporation knowing well is not providing them the facilities. Shri Ajay Mishra, learned counsel representing the State of M.P. submits that the State Government has decided to bifurcate the Road Transport Corporation into two and even otherwise they are not answerable to the claims of the salary of the employees of the Corporation. He, however, submits that the State is ready and willing to provide its fullest co-operation to the Corporation so that it runs smoothly, but relating to payment of salary it is made clear by him that the State

662

Government is not obliged to bear the expenses.

The parties including the State of M.P. were required to provide some positive and concrete scheme to revive the dying Corporation but neither the petitioner nor the respondents have some positive scheme with them. The payment of the salary to the employees may provide some solace to them and they may survive for some time but that would not provide anything in favour of the Corporation for its survival. It is expected of the employees of the Corporation, the Corporation itself and the State Government that they come out with some concrete proposal to restructure, reestablish and revive the Corporation.

663

The matter be listed for consideration on 9th May, 2001. It is expected of the Corporation that by 9th May it would pay salary of one month to the employees of Bilaspur Division including Raigarh Depot. It is also expected of the respondent-Corporation that it would collect the amount to bring the vehicles back on the road. It is, however, made clear that before the Corporation is divided into two, the State of M.P. would also bring some positive scheme because so long as the Corporation is not divided, it cannot be expected from the State of Chhattisgarh that they would have some say in the matter. Both the State Governments in the interest of the employees of the Corporation or at least in the interest of their citizens who are

664

working with the Road Transport Corporation should evolve some scheme so that the public which elects the government may not suffer because of the bad policies either of the Corporation or of the concerned department of the government."

4. The matter came up for further hearing on 09.05.2001 and it was adjourned to 02.07.2001 and 06.08.2001. On 06.08.2001 both the Advocate Generals of respective States along with Officers were present and they sought six weeks' time to enable the parties concerned of the two States to settle the matter. At the request of Shri A.G.Dhande, learned counsel for respondent No.3 and 4, further time was granted on 24.09.2001 and direction was issued regarding the payment up to month of July, 2001 within 15 days from the date of order. Corporation employees were also directed to render due co-operation. The matter came up for further hearing on 22.10.2001 and by referring the orders dated 24.09.2001 the parties were reminded

665

and were noticed and since no substantial progress was made it was directed that Chief Secretaries of both the States of Madhya Pradesh and Chhattisgarh to go through the order sheets passed in the case and should file their affidavits on or before 05.11.2001 regarding the compliance of the orders passed by this Court and action taken pursuant to the orders passed.

5. On 05.11.2001, Shri Ajay Mishra, Dy. Advocate General of M.P. appeared and filed the xerox copy of the affidavit stating that original was left at Jabalpur and it was ordered to be filed and copy thereof be supplied to the other side. He prayed for and was granted time up to 09.11.2001. On 09.11.2001 affidavits of Chief Secretaries of State of M.P. as well as that of Chhattisgarh have been filed and this Court had passed orders as under :-

> "Affidavits of the Chief Secretaries of State of Madhya Pradesh as well as that of Chhattisgarh have been filed and the same have been perused.

666

So far as the petitioners are concerned, they undertake that they shall not make any agitation against the M.P. State Road Transport Corporation or the State administration. However, it is made clear that if any person indulges in any agitation against either the MPSRTC or the State administration, shall be dealt-with in accordance with law for disobedience of the order of this Court.

Having thus considered the facts and circumstances of the case and material available on record, it appears to be just and proper that the Transport Secretaries of both the States i.e. State of Madhya Pradesh and State of Chhattisgarh shall remain present before this Court on the next date of hearing. Chief

667

Secretaries of both the State may also remain present with complete record.

It is noted that in this matter the Secretary Government of M.P. has met the Transport Minister twice. In the circumstances, it would be just and proper that the Transport Ministers of both the States may also remain present before this Court in case no reconciliation takes place in view of section 58(3) of the State Re-organisation Act, 2000 and section 47-A of the State Road Transport Corporation Act.

So far as salary of the employees is concerned Shri Dhande submits that for the month of July Rs.22,00,000/- have been paid and Rs.4,00,000/- are yet to be paid.

668

For the month of August Rs.26,00,000/- will be required.

Let full salary for the month of July and August, 2001 be paid within five days from today. If there is any financial constraint, both, the State of Chhattisgarh and also State of Madhya Pradesh are obliged to consider the request for such financial assistance.

The Chairman and Managing Director of the MPSRTC shall also remain present on the next date of hearing.

Union of India be joined through concerned Secretary and notice be issued.

List the case on 23.11.2001."

6. On 23.11.2001, the matter came up for further hearing and the order was passed as under :-

669

"None of the Secretary or anybody else is present for the State of Chhattisgarh.

Shri Gaharwar submits that copy of the petition has not been supplied to him.

Learned counsel for the petitioner is directed to supply two copies of the petition during the course of the day and acknowledgement be obtained.

Shri Mishra, Dy. A.G. for the State of M.P. submits that he has filed affidavit of the Chief Secretary. He further submits that all the documents including return etc. have already been supplied to the counsel for Union Govt.

Learned Dy. A.G. representing State of Chhattisgarh is directed to supply all the papers including return,

670

affidavit etc. to the counsel for the Union of India during the course of the day and acknowledgement be obtained.

So far as the salary is concerned it is stated that for July and August months salary of the employees of Bilaspur Division is paid. So far as Raipur and other divisions are concerned, if the salary is not paid, efforts be made to pay the salary of the months of July and August till 7.12.2001.

Shri Shrivastava undertakes to file list of the employees of Bilaspur, Raipur and other divisions of State of Chhattisgarh. Let all the members of the Union to file their details like place of posting, post on which they are working along with photograph.

671

Raipur Division be also joined as party in this petition, since it is a public interest petition.

Shri Shrivastava submits that the employees / workers are facing hardship, some times they fell sick and one Jairam died facing the hardship. If any such case come in the light, the same shall be referred to the Collector concerned who shall provide medical aid.

So far as none appearance of the officers of the State of Chhattisgarh is concerned, it requires explanation from each of them and affidavit to that effect be also filed till the next date of hearing.

The Secretary and officers of the State of Chhattisgarh who were directed to remain present, shall remain present on the next date of

672

hearing. So far as presence of Secretary and other officers of the State of Madhya Pradesh are concerned they may appear on the next date of hearing.

The dispute is such which may be resolved by the two states. It is submitted that the State of Madhya Pradesh has already moved for bifurcation, the scheme has been prepared and has been submitted to the Central Government. The cabinet & sub-committee of the cabinet of State of Chhattisgarh have to decide. There should be no difficulty in taking decision. So far as this Court is concerned suffice it to say that there should be no difficulty in taking decision and it may be taken at the earliest possible. It is stated that the Chief Secretary of both the

673

State have taken up the matter. The Advocate General of both the States to co-ordinate. The progress regarding process of bifurcation and decision taken if any shall be submitted to this Court on the next date of hearing.

Since it is reported that learned Solicitor General is coming on 7th December 2001 in some other case, this case be also listed on that day. List on 7.12.2001."

7. Pursuant to the orders passed by this Court on 23.11.2001 this case was taken up today. Counsel for the parties have been heard at length.

8. The petition was filed at Jabalpur and thereafter applications for amendment have also been filed. Subsequent events have taken place.

9. Shri A.G.Dhande, learned counsel appearing for the respondents No.3 and 4 further submitted that after formation new State of Chhattisgarh the

674

Corporation also felt difficulties. It is alleged by him that proper co-operation is not being extended by the officials as well as certain routes are closed. The Corporation has also made various applications. They also raised their grievances which have arisen subsequent to the bifurcation of the State. Shri A.G. Dhande, learned counsel appearing for respondents 3 and 4 submitted that State Road Transport Corporation is not getting proper co-operation from the State Authorities to strengthen its financial condition and further that local administration has prohibited the plying of buses through the original route which passes before the High Court and the respondents are compelled to ply their buses by adopting circuitous route resulting in additional plying of 18 klms per trip per bus which causes additional burden over already sick Transport Corporation. It is stated by the counsel for the respondents 3 and 4 that licensed Maxi Cabs owners who ply in the nationalized routes as per permit given by the state Government also ply from Bus stand and as per discussion with the Deputy Commissioner, Transport of

675

the State it was decided that separate Bus Stand for Maxi Cabs would be provided and the Maxi Cabs owners would not be permitted to ply from the Bus stand. However, this decision was not implemented resulting in huge loss to the Corporation. He further submitted that the local administration and the Transport Commissioner be directed to allow the Corporation buses to ply through the original route and the Maxi Cabs be restrained from operating from the Bus stand.

10. After formation of the State new situations have arisen and the Court has also passed certain orders from time to time. The State of Madhya Pradesh has already created its own Corporation at Bhopal and for creation of the same in Chhattisgarh State the matter has been placed before the Cabinet and some decision has to be taken by the State of Chhattisgarh for the same.

11. In this view of the matter it would be just and proper to give an opportunity to the petitioners to file the petition afresh incorporating all the subsequent events if they so desire. So far as salary part is

676

concerned the persons who are working in the State of Chhattisgarh in different depots should be paid their salary regularly. While disbursing salary to the employees if there is any difficulty the Chief Secretaries of both the States may sit together and sort out the matter effectively. At this stage we can only say that the matter should be resolved at the State level itself. Both the State shall look into the matter and the advocate Generals as well as Chief Secretaries of concerned Departments of both the State shall take necessary steps in that direction. It would be fitness of things that the matter should be resolved at the State level and efforts should be made for the same.

12. Having given thoughtful consideration we of the opinion that so far as salary part of Bilaspur, Raipur and other depots are concerned the orders have been passed from time to time by this Court and suitable guidelines have been issued. In view of the developments which have taken place, it is just and proper to give opportunity to the petitioner to file afresh petition

677

raising all the questions if they so desire. The Corporation may also file such petition which it wants to file. The MPSRTC may also file suitable application. Parties to this petition are also at liberty to file suitable applications, if they so desire.

13. Before parting we have mentioned that the matters like this, it is always better that the disputes are resolved by mutual co-operation of both the States. Such disputes like present one can be resolved by Transport Secretaries or the Chief Secretaries of both the respective States. The Advocate Generals of both the respective States may also render due co-operation.

14. Shri Kirit N. Rawal, learned additional Solicitor General of India submitted that if they fail, and if both the States are not in a position to resolve the matter and if the occasion arises or the Government of both the States makes request in that regard, the Central Government would look into the matter in accordance with law.

678

15. Having considered the facts and circumstances of the case and perused the material available on record including the returns and rejoinders duly supported by affidavits, we dispose of this petition at this stage with the above directions and observations. However, the petitioners shall be at liberty to agitate their grievance, if any, afresh before the competent authority if they so desire and the documents, if any, filed may be returned after photo stat copies of the same are placed on record.

Certified photocopy to all the parties free of cost.

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge

RSNR